



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



393205

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV 21 2011

REPLY TO THE ATTENTION OF:

Waste Management of Metro East Utilities
5920 Gateway Industrial Blvd
Belleville IL 62223

Re: Request for Information Pursuant to Section 104(e) of CERCLA regarding Chemetco,
facility in Hartford, Madison County, Illinois

Dear Sir or Madam:

This letter seeks your cooperation in providing information and documents relating to the Chemetco facility in Madison County, Illinois. This facility has been listed on the National Priorities List (NPL) under the federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, commonly referred to as "CERCLA"). This is because the Site is contaminated with hazardous substances that may present a threat to human health or the environment.

The United States Environmental Protection Agency (EPA or "Agency") is investigating the release, or threat of release, of hazardous substances, pollutants or contaminants at the Site. EPA is seeking information concerning the generation, storage, treatment, transportation, and disposal of hazardous substances that have been, or threaten to be, released from the Site. Currently, EPA is identifying activities, materials, and parties that contributed to contamination at the Site. Ultimately, EPA, or by agreement, responsible parties, will study the effects of these substances on the environment and public health and implement required response actions, as appropriate. EPA believes that you possess information which may assist the Agency in its investigation of the Site. Enclosure 1 provides background and historical information concerning the Site and Enclosure 2 provides a map of the Site.

We make this request under Section 104(e)(2) CERCLA, which gives EPA the authority to assess the threats to human health and the environment posed by contaminated sites and to clean up those sites. Under CERCLA, EPA has information-gathering authority that allows the Agency to require persons and corporations to furnish information and documents. Enclosure 3 is a summary of the Agency's legal authority under CERCLA.

We encourage you to give this matter your immediate attention. Instructions to guide you in the preparation of your response are in Enclosure 4. Definitions of the terms used in this Information Request are provided in Enclosure 5. The Information Request itself is found at Enclosure 5. You are required under law to provide a complete and truthful response to this Information Request and its questions, as well as to provide all requested documents. We request that you respond to this Request and provide requested documentation within fifteen (15) business days of your receipt of this letter.

You may consider the information that EPA is requesting confidential. Under CERCLA, you may not withhold information on that basis; but you may ask EPA to treat the information as confidential. To request that the Agency treat your information as confidential, you must follow the procedures outlined in Enclosure 7, including the requirement that you support your claim for confidentiality.

Compliance with this Information Request is mandatory. CERCLA provides that failure to answer the questions fully and truthfully and within the prescribed time frame can result in an enforcement action and penalties. Other statutes provide that the submission of false, fictitious statements, or misrepresentations can result in sanctions.

EPA has the authority to use the information that it requests in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

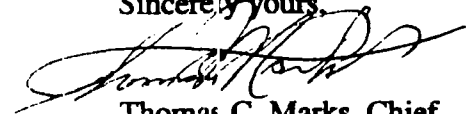
Your response to the information request should be sent back to EPA within fifteen (15) business days of your receipt of this letter. Your response should be sent to:

Mike R. Rafati, Enforcement Specialist
U.S. Environmental Protection Agency
Remedial Enforcement Support Section
77 W. Jackson Blvd., SR-5J
Chicago, IL 60604-3590

If you have any legal questions, please call Thomas Martin, Associate Regional Counsel, at (312) 886-4273. If you have technical questions about this Site, please call Michelle Kerr, Remedial Project Manager at (312) 886-8961. Address all other questions to Mike R. Rafati, Enforcement Specialist at (312) 886-0390.

We appreciate your assistance and look forward to your prompt response to this Information Request.

Sincerely yours,



Thomas C. Marks, Chief
Enforcement Services Section #2

List of Addresses

**Garcia Trucking Co.
2760 North 45th Street
East Saint Louis, IL 62201
(618) 874-3741**

**Great Lakes Transportation Inc.
16400 S. Lathrop
Harvey, IL 60426
(708) 331-6258**

**Par Transportation
2975 Kingshighway
East Saint Louis, IL 62201
(618) 875-3300**

**Waste Management of Metro East Utilities
5920 Gateway Industrial Blvd.
Belleville, IL 62223
(618) 25-8734**

Enclosures

- 1. Site Background/History**
- 2. Site Map**
- 3. Legal Authority**
- 4. Instructions**
- 5. Definitions**
- 6. Information Request**
- 7. Confidential Business Information**

Enclosure 1

SITE BACKGROUND

Chemetco is located approximately two miles south of the Village of Hartford, Madison County, Illinois. Chemetco was a former secondary copper smelter which operated from 1969 to 2001. The Chemetco property occupies more than 230 acres of land, but the former smelter only operated on 41 acres (the smelter site). Chemetco's major function was recycling or secondary processing of copper-bearing scrap and manufacturing residues. This process produced waste byproducts such as slag, zinc oxide (scrubber sludge), and spent refractory brick. On October 31, 2001, Chemetco shut the facility down, and filed for Chapter 7 bankruptcy on November 13, 2001. On December 7, 2001, the Illinois EPA (IEPA) issued an order to seal Chemetco.

In the course of its operations, Chemetco stockpiled approximately 452,254 cubic yards of waste material called "slag" on the northeast corner of the facility property. In addition, IEPA and United States Environmental Protection Agency (EPA) have identified approximately 62,204 cubic yards of zinc oxide (scrubber sludge) located in five separate areas on the Chemetco property, including a 2.5 acre concrete bunker located at the north end of the facility. Elevated levels of cadmium, chromium, copper, lead, mercury, and zinc, among other heavy metals, have been found in the waste materials present at the Site. In addition, elevated levels of cadmium, copper, lead, and zinc, among other heavy metals, have been found in the wetlands and sediments of Long Lake and its tributary, downstream of Chemetco.

The trustee for the estate of Chemetco is now in the course of liquidating the bankrupt company's assets. The facility has been secured with fencing around the perimeter of the 41 acre site. The State of Illinois and EPA have each filed claims in federal court to address contamination on and off the Site, including the lead, cadmium and zinc detected in wetlands and Long Lake downstream of Chemetco. To better enable use of governmental authority under CERCLA, the federal law that addresses hazardous substances, the State proposed the Site for the National Priorities List (NPL) in 2009. EPA placed the Site on the NPL on March 3, 2010. Placing a Site on the NPL allows EPA to fund and implement remedial actions at the Site. CERCLA also authorizes EPA to recover funds it expends on such sites from responsible parties.

Enclosure 2

SITE MAP

Enclosure 3

DESCRIPTION OF LEGAL AUTHORITY

The Federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* (commonly referred to as CERCLA or Superfund) gives EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site; and 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. § 1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.

Enclosure 4

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. You must supplement your response to EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA as soon as possible.
6. For any document submitted in response to a question, indicate the number of the question to which it responds.
7. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
8. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

9. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
10. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 7.

Enclosure 5

DEFINITIONS

As used in this letter, words in the singular also include the neutral, and words in the masculine gender also include the feminine, and vice versa.

The term *person* as used herein includes in the plural as well as the singular any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.

The Site referenced in these documents shall mean the facility located in Hartford, Madison County, Illinois.

The terms *hazardous substance* shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.

The terms *pollutant* or *contaminant* shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.

The term *release* shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.

The term *identify* means, with respect to a natural person, to set forth the person's full name, present or last known business address, and business telephone number; present or last known home address, and home telephone number; and present or last known job title, position, or business.

The term *identify* means, with respect to a corporation, partnership, business, trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

The term *identify* means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter. The term material shall mean any substance.

All terms not defined herein will have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300 or 40 C.F.R. Parts 260-280, in which case, the statutory or regulatory definitions will apply.

Enclosure 6

INFORMATION REQUEST

Have you (defined as the company responding to this information request ("Company")), or any other person working with you, or on your behalf, ever accepted materials for transportation to the Chemetco Site (Site)? If the answer to this question is anything but an unequivocal no:

- 1. Identify all persons and/or companies, including you, who may have transported materials to the Site. Such persons/companies will be hereinafter be referred to as "Transporters".**
- 2. State whether you accepted materials, including municipal solid waste from a municipality or arranged with a municipality by contract or otherwise, for transport to the Site from any source. If so, below you will be asked to provide detailed information on the nature, quantity, and source of all materials accepted and transported to the Site from each source. In response to this question, provide a general description of the materials transported to the Site and the timeframes in which you transported these materials to the Site.**
- 3. List all federal, state and local permits and/or registrations issued to you for the transport and/or disposal of materials.**
- 4. Provide the following information about your company:**
 - i. The complete and correct legal name of the Company.**
 - ii. The name(s) and address(es) of the President and the Chairman of the Board, or other presiding officer of the Company.**
 - iii. The state of incorporation of the Company and the company's agents for service.**
 - iv. The name(s) of all subsidiaries, affiliates, or parent companies to your Company**
 - v. The state of incorporation and agents for service of process in the state of incorporation.**
- 5. State the names, telephone numbers and present or last known addresses of all individuals who you have reason to believe may have knowledge, information or documents regarding any transportation of materials to the Site, the disposal of materials at the Site, or the identities of the companies whose material was disposed of at the Site. For each individual identified, summarize the types of knowledge, information or documents you believe he or she may have.**
- 6. State whether there exists any agreement or contract (other than an insurance policy) which may indentify your Company, for any liability that may result under CERCLA for any release of a hazardous substance from the Site. If so,**

please provide a copy of the agreement or contract. Identify any agreement or contract that you are unable to locate or obtain and describe the relevant information contained therein. Identify by name and job title the person who prepared the document, and if the document is not readily available, state where it is stored or maintained and why it is no longer available.

7. State whether an insurance policy has ever been in effect which may indentify your Company against any liability which the Company may have under CERCLA for any release or threatened release of a hazardous substance that may have occurred at the Site. If so, please provide a copy of the policy. Identify any policy that you cannot locate or obtain by the name of the carrier, years in effect, nature and extent of coverage, and any other information you have.
8. Identify all persons and entities from whom you accepted materials which were taken directly or indirectly to the Site.
9. Identify the owners of the materials that were accepted for transportation by you, if not the same as the persons or entities described in 8, above.
10. Identify the person who selected the Site as the location to which you took the materials.
11. Describe the measures taken by each person or company who gave the materials to you to transport to the Site to control how you would handle the materials in their transport to the Site.
12. For each material taken to the Site, describe any warnings or instructions given to you with respect to its handling.
13. Identify all the Sites at which the materials were transshipped, or were stored or held at, prior to their final shipment to the Site.
14. Provide the amount paid to you as a Transporter for accepting the materials for transportation to the Site, the method of payment, and the identity of the person who paid you.
 - i. the years during which each customer's materials were taken to the Site.
 - ii. Provide copies of all tests, analyses, and analytical results concerning each material that you took to the Site.
 - iii. If you do not have documents responsive to the previous question, but believe others do, identify who might have such documents and the basis for such a belief.
 - iv. Describe the containers used to ship materials from each customer sending materials to the Site, including containers (if any) that you provided to customers for such use, including but not limited to:

1. the type of container (e.g. 55 gal. metal drum, 15 gal. cardboard drum, 5 gal. metal pail, etc.);
 2. the condition of the container (e.g. open, closed, sealed, damaged, new, used, etc.);
 3. the color of the container;
 4. any distinctive stripes or other marking on the containers; and
 5. any labels or writing on those containers (including the content of those labels or writing).
- v. Provide copies of all documents (including but not limited to log books, dump slips, manifests, receipts, and invoices) created or kept by you related to the collection of materials (including, but not limited to, composition and quantity of materials) from customers whose materials were taken to the Site.
 - vi. Provide copies of all documents created or kept by you related to the nature, quantity or source of materials taken to the Site.
 - vii. Provide copies of the correspondence to and from Chemetco and to and from any company sending material to Chemetco.
 - viii. Provide all records created or kept by you concerning the nature or quantity of materials:
 1. collected from customers; and
 2. taken to the Site.
 - ix. Identify all of your employees who may have taken or accompanied materials to the Site.
 - x. Identify your office manager during the time materials were transported to the Site.
 - xi. Identify your bookkeeper or other employee who handled the company's checkbook and accounts receivables during the time materials were transported to the Site.
 - xii. Describe the vehicles used to transport materials to the Site, including but not limited to:
 1. type of vehicles (e.g. tanker, flatbed, etc.);
 2. the color(s);
 3. distinctive markings (e.g. company names, logo); and
 4. number(s) of each type of vehicle.
 - xiii. Identify other Transporters that used to transport materials to the Site, including the types of vehicles used.

15. Describe what was done to each type of material after it was taken to the Site.

- i. Describe where each type of material brought to the Site was disposed of or otherwise placed.
- ii. If particular types of materials were placed or disposed of in separate or specific areas of the Site, indicate:
 1. the types of materials so placed or disposed;
 2. where on the Site those materials were placed or disposed; and

3. how those materials were placed or disposed.
 - iii. If particular customers' materials were placed or disposed of in separate or specific areas of the Site, indicate:
 1. the identity of each such customer;
 2. the nature and chemical composition of the customer's material so placed or disposed;
 3. the quantity of each such customer's material so placed or disposed; and
 4. where on the Site each such customer's material was so placed or disposed.
 - iv. If drums were placed or disposed of at the Site, indicate:
 1. where they were placed or disposed; and
 2. their condition when placed or disposed
 - v. If liquids were placed or disposed of at the Site, indicate whether and how liquids were:
 1. mixed at the Site;
 2. placed or disposed in a separate areas; and
 3. placed or disposed in their containers or removed from their containers.
 - vi. Describe all procedures undertaken by you and the Site operator upon your arrival/entry on to the Site, including but not limited to:
 1. the completion of any documentation of disposal/placement at the Site;
 2. any exchange of cash or checks; and
 3. any review of permits or other authorities to dispose/place materials at the Site.
 - vii. Describe your procedures for paying for the disposal/placement of materials at the Site, including but not limited to:
 1. method of payment (e.g. cash, check, money order);
 2. the frequency of which those payments were made;
 3. to whom those payments were made;
 4. the total amount of those payments and the rates paid;
 5. where those payments were made (e.g. at the Site, sent in mail, etc.); and
 6. provide the identity of the employee/agent in charge of accounting for and making such payments.
 - viii. Identify other individuals and entities that you have reason to believe may have taken or sent materials to the Site.
 - ix. Of those individuals and entities identified in the response to the preceding question, specify which individuals or entities you observed at the Site, and indicate when those observations were made.
16. Please state the name, title and address of each individual who assisted or was consulted in the preparation of the response to this information request

Enclosure 7

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 *et seq.* require that the EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Federal Register 36902 *et seq.* (September 1, 1976); 43 Federal Register 4000 *et seq.* (December 18, 1985).) If no such claim accompanies the information when the EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA); because as stated in Section 104(e)(7) (ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the EPA to treat the information or record as "confidential," you must advise the EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the EPA or other federal agency has made pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information; and
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(i). If you make this assertion, explain how the disclosure would tend to lessen the ability of the EPA to obtain similar information in the future; and
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. The EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.

77 West Jackson Blvd.
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Waste Management of Metro East Utilities
5920 Gateway Industrial Blvd
Belleville IL 62223

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W. J. Clement *SE-57*

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